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MEMORANDUM OF AGREEMENT made this 29th day of June 1948, between the UNITED STATES OF AMERICA (hereinafter called "the Government"), represented by the Contracting Officer executing this Contract and

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WITNESSETH:

WHEREAS, the Government desires that the Contractor conduct certain studies and experimental investigations, and undertake such construction as hereinafter specified;

WHEREAS, the Contractor is willing to conduct such studies and experimental investigations and undertake such construction on an "actual cost" basis as hereinafter specified;

WHEREAS, the existing facilities of the Government are inadequate, and the employment of the Contractor is considered advantageous to the national interest;

WHEREAS, the subject work will require that a substantial part of the materials, supplies and other articles acquired therefor be either consumed or incorporated into equipment or other articles to be constructed or assembled during the course of the work;

WHEREAS, the Government is authorized to execute such an AGREEMENT:

NOW THEREFORE, in consideration of the premises and of the mutual agreement hereinafter set forth, the parties hereto agree with each other as follows, to wit:

ARTICLE 1. Subject Work. (a) The Contractor shall, with the utmost secrecy and dispatch and in accordance with the instructions issued by the Contracting Officer or his authorized representative, supply the necessary personnel and facilities for and conduct such studies and experimental investigations and undertake such construction in connection with equipment and basic specification contained in our File No. SWS Project 88. Said specification is hereby incorporated by reference and made a part hereof in the same manner as if it had been fully set forth. The Contractor shall report the progress of such studies, investigations, and construction from time to time, as directed by the Contracting Officer or his authorized representative and shall deliver all models developed hereunder to the designee of the Contracting Officer. The Contractor's undertakings under this paragraph are hereinafter called "the subject work".

(b) **Termination.** The Contractor shall proceed with the subject work until 29 December 1948 or until such later date as may be authorized in writing by the Contracting Officer and agreed to by the Contractor.

(c) **Acceleration of Termination.** The Contracting Officer may at any time advance the date fixed under paragraph (b) by giving the Contractor thirty (30) days' notice in writing that the subject work shall terminate at a specified earlier date. The Contractor shall likewise have the right to cancel this Agreement, or any authorized extension thereof upon thirty days' written notice. Upon receipt of such notice, the Contractor shall exercise all reasonable diligence to obtain the cancellation of its outstanding commitments hereunder running beyond such earlier date, but any reasonable cancellation charged incurred thereby by the Contractor and any reasonable loss upon outstanding commitments which it is unable to cancel shall be reimbursable hereunder.

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(d) Inspections. The Contracting Officer or his authorized representatives may inspect the subject work at all reasonable times.

first (e) Subcontracts. No subcontract executed hereunder shall provide for (i) payment on a cost-plus-a-percentage-of cost basis or (ii) the payment of a fixed fee in excess of seven per centum of the estimated cost, exclusive of the fee. The Contractor shall not enter into any subcontracts, including research or development of the kind contemplated by this Contract without obtaining the written approval of the Contracting Officer as to the form and substance thereof. The Contractor shall refer each prospective subcontract to the Contracting Officer or his authorized representative, who shall make an appropriate determination, including whether or not research or development is involved.

(f) Property Furnished Directly by the Government. The Government may furnish to the Contractor materials, supplies, apparatus, equipment, or other property, real or personal, for use in the performance of the subject work, and such property shall be used by the Contractor only for purposes approved by the Contracting Officer or his authorized representative.

(g) Definitions. "Contracting Officer" refers to the present Contracting Officer and his successors in office. An "authorized representative" can act hereunder only in the limited respects and to the extent specified in provisions of this Contract wherein the term "authorized representative" is specifically designated in writing as such by the Contracting Officer.

ARTICLE 2. Compensation. (a) The total contract price is Eighteen Thousand Seven Hundred Dollars (\$18,700.00).

(b) This Contract was negotiated at a price which it is estimated will reimburse the contractor for actual costs of the project with a reasonable allowance for profit.

(c) Ninety percent (90%) of the contract price shall be paid by the Government as it accrues in monthly installments based upon the percentage of completion of the work as determined from estimates submitted to and approved by the Contracting Officer or his authorized representative and upon the submission of properly certified invoices or vouchers. Final payment, upon completion of the work and the final acceptance, shall be made in accordance with paragraph (d) hereof. If the contract is terminated by the Government, payment shall be made in accordance with ARTICLE 9.

(d) Upon completion of the subject work and its final acceptance in writing by the Contracting Officer, the Government shall pay to the Contractor the unpaid balance of the contract price, less any sums that may be necessary to settle any unsettled claims in connection with this Agreement and any reduction in price by mutual agreement pursuant to ARTICLE 3. The Contracting Officer shall accept the completed work with reasonable promptitude.

(e) The Contracting Officer shall at all times have the right to reject any work not completed in conformity with the terms of this Agreement.

ARTICLE 3. Price Revision by Mutual Agreement. (a) Upon the written demand of the Contracting Officer, made at any time within sixty (60) days after completion of this Agreement, the Contractor will renegotiate the contract price to reduce it to an amount representing fair and reasonable compensation for the performance of the Contract. In such negotiations, the efficiency of the Contractor in production, buying, and management will be given due consideration.

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(b) The Contractor will furnish to the Contracting Officer such statements of actual costs of production and such other financial statements, at such times and in such form and detail as the Contracting Officer may prescribe. The Contractor will maintain such records and books of account showing the cost to it of performing the Contract as the Contracting Officer may prescribe, and will permit such audits and inspections of its books and records as the Contracting Officer may request.

(c) The Government shall retain from amounts otherwise due the Contractor, or the Contractor shall repay to the Government if paid to him, any amount of the contract price found as a result of such renegotiation to represent an excessive price and not eliminated through reductions in contract price or otherwise, as the Contracting Officer may direct.

(d) As used in this ARTICLE, the term "this agreement" means this agreement as originally written or as modified from time to time.

ARTICLE 4. (a) Disposition of Personal Property. At any time prior or subsequent to the termination of the subject work, the Contractor shall deliver at the Government's expense, when and as directed by the Contracting Officer, all or any part, complete or incomplete, of materials, supplies, apparatus, equipment, or other articles of personal property not heretofore expended or delivered hereunder which have been furnished by the Government hereunder or for the cost of which the Contractor has been reimbursed or has the right to claim reimbursement hereunder; Provided, That upon the termination of the subject work, the Contractor shall have the right to retain any such property other than that furnished by the Government, unless notified by the Contracting Officer that the national security renders such action inadvisable, by returning to the Government such sum of money as the Government may determine to be fair and proper.

(b) Accountability for Property. Within sixty (60) days after the termination of the subject work, the Contractor shall render an accounting, in accordance with the instructions of the Contracting Officer, of all property the disposition of which is governed by this ARTICLE.

ARTICLE 5. (a) Responsibility of Contractor. The Contractor shall be responsible to the Government for loss of or damage to materials, supplies, apparatus, equipment, and any other property, real or personal, the disposition of which is governed hereby, only if and so far as attributable to the wilful misconduct or lack of good faith of an officer of the Contractor or of any other person having complete or substantially complete charge of the establishment where any undertaking hereunder by the Contractor is performed.

ARTICLE 6. Security Provisions. (a) During the continuance of the present unlimited National Emergency, the Contractor shall not disclose any information concerning this Contract or obtained as a result of the performance of its undertakings hereunder to any person, except employees assigned to such work, without the written consent of the Contracting Officer. Subsequent to the termination of such Emergency, disclosure of such information shall be governed by the applicable laws and regulations governing the disclosure of classified information. Disclosure of information concerning this Contract or such work to any person not entitled to receive it, or failure to safeguard all such classified matters within the Contractor's control, may subject the Contractor, its employees and subcontractors to criminal liability under the laws of the United States, including (i) 50 U.S.C. Chap. 4, (ii) 50 U.S.C. 45-45d, as supplemented by Executive Order 8381, dated March 22, 1941, and (iii) 35 U.S.C. 42-42f.

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(b) The Contractor shall immediately submit a confidential report to the Contracting Officer whenever for any cause it has reason to believe that there is an active danger of espionage or sabotage affecting any of the subject work.

(c) The Contractor shall not employ any alien on or permit any alien to have access to the subject work or any plans, specifications or records relating to its undertakings hereunder without the written consent of the Contracting Officer as to each such alien.

(d) The Contractor, whenever requested by the Contracting Officer, shall report to the Contracting Officer the citizenship, country of birth or alien status of any or all of its employees at the site of, or having access to, any of the subject work.

(e) The Contractor shall not employ or continue to employ on, and shall exclude from the site of, any of the subject work any person or persons designated in writing by the Contracting Officer, for cause as undesirable to have access to such work.

ARTICLE 7. Public Policy Provisions. (a) The Contractor warrants that it has not employed any person to solicit or secure this Contract upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give the Government the right to annul the contract or, in its discretion, to deduct from the contract price or consideration the amount of such commissions, percentage, brokerage or contingent fee. This warranty shall not apply to commission payable by the Contractor upon contracts or sales secured or made through bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

(b) No Member of or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this Contract or any benefit that may arise therefrom, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

(c) The Contractor shall not discriminate in any act performed hereunder against any person on the ground of race, creed, color, or national origin, and shall include such provision in each subcontract.

(d) The representations and stipulations required by Section 1 of the Act of June 30, 1936 (Walsh-Healey Act, Public No. 846, 74th Congress) to be included in all contracts therein specified are hereby incorporated and made a part of this Contract with the same force and effect as if fully set forth in the Contract. Such representations and stipulations shall be subject to all applicable regulations, determinations, and exemptions of the Secretary of Labor now or hereafter in effect.

ARTICLE 8. Night Hour Law. The Contractor shall compensate laborers and mechanics for all hours worked by them hereunder in excess of eight (8) hours in any one calendar day at a rate of not less than one and one-half (1½) times the basic rate of pay of such laborers and mechanics, and shall include such provision in each subcontract. For each violation of the requirements of this ARTICLE a penalty of five dollars (\$5.00) shall be imposed upon the Contractor or subcontractor for each laborer or mechanic for each calendar day in which such employee is required or permitted to work hereunder more than eight (8) hours without receiving such additional compensation, and all penalties thus imposed shall be withheld for the use and benefit of the Government.

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(a) The Government may at any time terminate this Contract in whole or in part for its convenience by giving the Contractor written notice of such termination.

(b) In the event of such termination, the Contractor and the Contracting Officer will attempt to agree by negotiation upon a settlement estimated by the parties to be the aggregate amount (less payments previously made) of the costs incurred by the Contractor in the performance of this Contract and the amounts paid or to be paid by the Contractor or for the account of the Contractor on settling with the approval of the Contracting Officer its obligation for commitments made in the performance of this Contract. Such negotiated settlement may include a reasonable allowance for profit. Any such negotiated settlement shall be embodied in a supplemental agreement.

(c) If the Contractor and the Contracting Officer are not able to agree upon such a negotiated settlement within 90 days after the effective date of the termination (or within such longer period as at any time may be mutually agreed upon), the Government binds itself (without duplication of any of the following payments or of payments previously made) to reimburse the Contractor for the costs incurred by it in the performance of this Contract and for any amounts paid by it or for its account in settling with the approval of the Contracting Officer its obligations paid for commitments made in the performance of this Contract. In lieu of reimbursing the Contractor for expenditures made by it in settling any of its obligations for commitments, the Government, in the discretion of the Contracting Officer, may assume such obligations or any of them. The total of such reimbursement (and of all payments previously made), together with the amount of any obligations assumed, shall not exceed the amount stated in ARTICLE 2. above. Such allowance of profit will be made with respect to the work done prior to the effective date of the termination as the Contracting Officer may find to be reasonable under all the circumstances.

(d) The Government may permit the Contractor to sell or retain at prices or on terms agreed to by the Government any equipment, completed supplies, materials or work in process, and the proceeds of any such sale, or such agreed prices, shall be paid or credited to the Government in such manner as the Contracting Officer may direct.

(e) Upon payment or reimbursement to the Contractor pursuant to paragraph (b) or (c) of this ARTICLE, title to all equipment, completed supplies, work in process, materials, plans, information, and other things, for which the Contractor is so paid or reimbursed (except such property as may be sold or retained by the Contractor as above provided) will vest in the Government (if title thereto has not already become vested in the Government). The Government will also become entitled to any rights under any commitment which it may assume, or for the settlement of which it shall have reimbursed the Contractor.

(f) Any dispute which arises under this ARTICLE regarding a matter of fact will be treated and resolved as a dispute under ARTICLE 12, "Disputes" Article.

(g) Partial payments on account of any amount admittedly due the Contractor pursuant to this paragraph may be made by the Government at any time in the discretion of the Contracting Officer.

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ARTICLE 10. Notes and Drawings. All models, notes, designs, drawings, specifications, and other technical data concerning the work called for by this Contract are to become the property of the Government on completion as outlined in this Contract (or on termination of this Contract under **ARTICLE 9**;) and shall be available to inspection by, and shall be delivered to the Government whenever requested by the Contracting Officer. Access to such data shall be restricted to trusted and duly authorized representatives of the Government and the Contractor.

ARTICLE 11. Patent Provisions. (a) The Contractor hereby grants to the Government of the United States an irrevocable option to purchase a non-exclusive license or licenses, subject to the payment of royalties, to make, have made, and use, for military, naval, and national defense purposes, and to sell materials in accordance with law, and to use processes, under all United States patents and applications for patents owned or controlled by the Contractor covering inventions heretofore developed and actually or constructively reduced to practice and concerned with the subject work. Any such license shall be granted upon reasonable terms subject to negotiation at the time the Government may desire to exercise its option hereunder.

(b) The Contractor shall and does hereby, in consideration of the premises and in consideration of payments to be made by the Government under this Contract, grant unto the Government a non-exclusive, irrevocable, royalty-free license, to make, have made, and use, for military, naval, and national defense purposes, and to sell or otherwise dispose of material in accordance with law, and to use processes, under all inventions made in carrying out the subject work, including all inventions / exclusive of inventions covered by paragraph (a) / which for the first time were actually or constructively reduced to practice as a result of the subject work, whether patented or unpatented. The Contractor shall make to the Government, prior to the final settlement under this Contract, a complete disclosure of all inventions made in carrying out the subject work and shall designate in writing which of the said inventions have been or will be covered by applications for patents filed or caused to be filed by the Contractor. The Contractor shall have the right, upon notification by the Government, to elect whether it or the Government shall file application for patents or inventions in addition to those designated by the Contractor as aforesaid.

(c) As to all such inventions that are not covered by applications for patents as specified in paragraph (b), the Government shall have the right, at the Government's expense, to file, prosecute, and act upon applications for patents thereon, and the Contractor shall secure the execution of the necessary papers and do all things requisite to protect the Government's interest in prosecuting such applications to a final issue. When an application for patent is filed by the Government as aforesaid, all right, title, and interest in and under the patent shall be assigned to the Government by the Contractor except that the Contractor may retain a nonexclusive license nontransferable, except to an assignee of the entire business to which said license is appurtenant.

(d) The Contractor covenants that it has not entered into and will not enter into any arrangement to evade the intent of the article for the Government to obtain without further payment a nonexclusive license to patents, applications for patents and inventions as called for in paragraph (b) above.

(e) The execution of this Contract shall not constitute a waiver of any rights the Government may have under patents or applications for patents.

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ARTICLE 12. Disputes of Fact. The Contractor agrees that any dispute of fact shall be determined by the Contracting Officer, subject to an appeal therefrom by the Contractor to the Director of the Agency, or his authorized designee, whose decision shall be a final determination of the rights of the parties hereunder.

IN WITNESS WHEREOF, the Government and the Contractor have caused this Contract to be signed and sealed, intending to be legally bound thereby.

THE UNITED STATES OF AMERICA

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